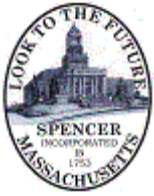


Conservation Commission – Town of Spencer



Minutes

Conservation Commission Meeting
Wednesday, July 9, 2014 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Mary McLaughlin, Warren Snow, Dana Reed, John Haverty, James Bouley, Eric Peterson

Commissioners Absent: Margaret Emerson

Staff present: Margaret Washburn

Minutes Approved:

June 11, 2014 – *A motion to approve the minutes as amended (Snow/Bouley) passed 6/0.*

June 25, 2014 – *A motion to approve the minutes as amended (Bouley/Reed) passed 6/0.*

Signed:

Lake Whittemore Legislative Extension

31 Lake Avenue, Certificate of Compliance – Ms. Washburn inspected on July 7th. She said all areas are stable and recommended issuing the Certificate of Compliance. *A motion to issue a Certificate of Compliance (Snow/Haverty) passed 6/0.*

40 South Spencer Road, Continuance Form

7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Kristian Rondeau

Property: 40 South Spencer Road, Spencer, MA DEP#293-0822

At the request of the applicant's representative, the hearing has been continued to August 13, 2014.

7:17 p.m. Opened the Public Hearing for Notice of Intent for Brooks Pond Conservation Association

Property: Brooks Pond Road, Spencer, MA DEP#293-0829

Mr. Reed is an abutter and recused himself. Chris Cullen and Kristen O'Connell, from Fuss & O'Neill, presented the project. Mr. Cullen said the dam at Brooks Pond has a number of deficiencies. The Office of Dam Safety says the trees must be removed. When the trees fall, it can cause the dam to fail. Mr. Cullen said all the woody vegetation

on the dam, within 20 feet of the dam, and abutments must be removed. Mass DOT has already cleared some trees.

Mr. Cullen said the other problem is seepage. The spillway was installed to the east of the previous pond outlet in 1938-1939. A timber corewall was also installed in the dam at the same time. Now there is seepage near the right abutment. Seepage can wash material out of the dam and can cause sudden failure. Some seepage is also traveling along the pipe. There is a big beaver dam 20 to 30 feet from where the stream enters the river. The water that is sitting at the toe of the dam weakens the dam. A toe drain will be installed underground.

Ms. Washburn stated that Steve Tyler had said that the Office of Dam Safety and Army Corps of Engineers have not signed off on the plan and he suggested that the Commission wait to issue the Order of Conditions until DCR and ACOE have completed their review. Ms. Washburn suggested including the beaver dam removal as part of this Notice of Intent. A beaver permit must be obtained from the Board of Health as well.

Ms. Washburn said the work will be within 40 feet of the river. Therefore, a boom will have to be placed in the river. ESCs must be installed in the stream where dredging is proposed. Ms. Washburn asked how the bank and the stream will be protected when the machines cross the stream. Mr. Cullen said the big trees and stumps will be removed and backfilled. Permanent impacts are the stream channel dredging, the trees and stumps that will be removed/backfilled, and the toe drain soil removal/backfilled.

Ms. Washburn asked what time of the year will they do this work. Mr. Cullen said in the fall. The job should only take approximately three to four weeks. Ms. Washburn recommends that the Order of Conditions states weekly reports be submitted and a pre-construction conference be held.

Ms. Washburn said that Fuss & O'Neill must explain to the Commission in writing how the project meets the Performance Standards for working in LUWB (10.56(4)(a)(1 through 4) and for working in the BVW (10.55(4)(b)(1 through 7)).

Mr. Reed (participating as a member of the public) asked what the ongoing maintenance is for the toe drain. Mr. Cullen said the toe drain will be cleaned out periodically. Mr. Tyler suggested that a clean-out riser be installed for the toe drains.

At the request of the applicant, the hearing has been continued to July 23, 2014.

8:03 p.m. Opened the Public Meeting for Request for Determination of Applicability for Karen Hubert

Property: 25 Oakland Drive, Spencer, MA

Ms. Hubert started having some tree work done near Sugden Reservoir without a permit. Tree #1 is diseased. It is about 70 feet from the Reservoir. The base is rotting. A bucket truck was used to start removing limbs. It is proposed to cut the tree and leave the stump.

Tree #2 is about 94 feet from the Reservoir. It appears to be cracked about 20 to 30 feet up the trunk. Tree workers recommended removing two branches to relieve the stress crack. There is no plan to cut this tree.

Ms. McLaughlin said when the Commission did the site visit on July 8th they noticed that, on the corner of Wildwood Avenue and Oakland Drive, trees were cut in the buffer zone. Ms. Washburn will send a Notice of Violation to the owners. This work was not done by the owner of 25 Oakland Drive.

A motion to close the public meeting (Reed/Peterson) passed 6/0.

A motion for a Negative Determination (Reed/Peterson) passed 6/0.

8:15 p.m. Opened the Public Meeting for Request for Determination of Applicability for Bree Hall

Property: 101 Clark Road, Spencer, MA

Ms. Hall is proposing to work on the retaining wall and stairs at the edge of Stiles Reservoir. Ricci Hall said the stairs don't go down to the water. They plan to remove 280 linear feet of versa block wall caps. Hand tools will be used to remove the block wall. New blocks will be installed with landscape adhesive. They plan to power wash the wall beside the boat launch leading to Stiles Reservoir. 12' of wattles or hay bales will be installed. The crumbled bits of block can be removed from the lake. The dirt must be kept out of the lake.

A motion to close the public meeting (Snow/Peterson) passed 6/0.

A motion for a Negative Determination (Reed/Snow) passed 6/0.

Other Business:

104 McCormick Road: Ms. Washburn said she met with James Convery on July 7th at his request. She said the DEP sign is up on a telephone pole on the Town ROW and should probably be moved onto the subject property. She said Mr. Convery would like to do the majority of the site work before planting the replication area. The Order of Conditions says he must create the replication area first. Ms. Washburn said she spoke to Art Allen and he had told her, in his opinion, it makes perfect sense on this site to do the driveway and earthwork under dry conditions with planting to be done in the fall. The Commission was in agreement.

43 Oakland Drive: Ms. McLaughlin is an abutter and had recused herself. Ms. Washburn received a complaint. She and Ms. McLaughlin inspected and took photos on 7/2/14. Retaining walls have been built within 100 feet of the Bank of Sugden reservoir with no permit. It appears as though some fill was brought in, when the 7/2/14 photos are compared to the 7/9/13 photos. There is an area of newly exposed soils. Ms. Washburn and Ms. McLaughlin met Michael McTigue, property owner. He said he didn't know that a permit was required and that he would come to tonight's meeting. Ms. Washburn issued an NOV on 7/2/14. He was issued a cease and desist order on 7/2/14, except for work on the shed which he is re-siding.

Mr. McTigue stated that he would eventually like to repair the retaining wall on the Bank of Sugden Reservoir. He was told that filing an NOI would generate a permit for the proposed work as well as the work that has already been done without a permit. If the Commission decides to require an NOI, a deadline should be set. Mr. McTigue said he doesn't want to pursue the wall on the water's edge at this time. He will call to make an appointment to fill out the RDA application.

33 Meadow Road: Ms. Washburn said that on 6/30/14 she met with Bill Hickey of Nuwater, Inc. (the contractor) and Tom O'Rourke of O'Rourke Industries (the excavating subcontractor). Ms. Washburn took photos. She gave permission for them to cut some overhanging trees. Stumps will remain in place. The erosion controls will be installed at the new tree line. Ms. Washburn said she gave permission for them to do some routine brush cutting because vines are growing into the chain-link fence surrounding the pumping station. They discussed installing an overflow area for the water in the frac tank in case a big storm or a pump malfunction causes the sewer pipe receiving the water from the frac tank to be overwhelmed. The overflow area would involve no excavation and no basin or berm. It would simply be an area surrounded by erosion controls to filter the water before it hits the river. Ms. Washburn asked for a sketch of this overflow area to show the Commission at tonight's meeting. The Commission had no problems with the overflow area.

Jolicoeur Avenue: Mr. Bouley recused himself. The reason this is being brought up again is that the 3/0 vote on 5/14/14 was not made by a majority of the Commission. Ms. Washburn suggested that the Commission do two things:

- 1) Discuss the matter again and take another vote on revoking the DOA.
- 2) Discuss and take a vote on whether to issue an EO or for the Commission to file an RDA and issue a positive determination. Both of these were recommended by Ms. Maryann DiPinto, from DEP, as a way of issuing a written revocation of the determination.

Mr. Reed has issues with revoking the Determination. He does not have issues with issuing an Enforcement Order, as Maryann DiPinto recommended. *A motion to issue an Enforcement Order (Snow/Haverty) passed 5/0.*

Site Visits: The Commission will do site visits on Monday, July 14th at 5 p.m.

New Applications: 34 Point Eastalee, NOI
 20 Laurel Lane, NOI
 115 Charlton Road, NOI

A motion to adjourn the meeting at 9:06 p.m. (Bouley/Haverty) passed 6/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 7/9/14 Spencer Conservation Commission meeting:

Agenda for the 7/9/14 meeting

Minutes from the 6/11/14 and 6/25/14 Conservation Commission meetings (approved as amended)

Margaret's report dated 7/9/14

Continuance form for 40 South Spencer Road (signed)

RDA file for 101 Clark Road, including Negative Determination (signed)

RDA file for 25 Oakland Drive, including Negative Determination (signed)

NOI file for Brooks Pond Road Dam repair

Continuance form for Brooks Pond Road Dam repair NOI (signed)

Certificate of Compliance for 31 Lake Avenue (Stephen Coleman, signed)

Request for Certificate of Compliance, inspection report and photographs dated 7/7/14 for 31 Lake Avenue

Memorandum re: Lake Whittemore OofC Extension of OofC file no. 293-0672 (signed)

Letter dated 6/23/14 from the Massachusetts Land Court re: tax liens on 15 Wall Street and 1 Linden Street

Letter dated 5/15/14 from Philip Stoddard re: Map 23, Parcel 41 (a portion of)

Severe Weather Emergency Declaration for Hurricane Arthur issued by MA DEP issued 7/3/14

Violation file for 43 Oakland Drive